

WISCONSIN
Department of Commerce

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Scott McCallum, Governor
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September 20, 2001

John M. Van Lieshout
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Kenneth H. Riemer
Riemer Farm
12160 N Wauwatosa Rd
Mequon WI 53097-2704

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Office of the Secretary
Department of Commerce
P.O. Box 7838
Madison WI 53707-7838

DJ Skaro
Administrative Law Judge
UI Madison Hearing Office
1801 Aberg Avenue Suite A
Madison WI 53707-7975

Re: Kenneth H. Riemer, Riemer Farm v. Dept. of Commerce, Hearing #98-207
PECFA #53097-2704-60
Site: Riemer Property, 12160 N Wauwatosa Rd, Mequon

Dear Parties and Hearing Office:

Attached is a copy of the proposed and final decisions in the above captioned matter. Please note that the decision contains a description of the procedures for filing a rehearing request or petition for judicial review and a list of the parties in interest.

Sincerely,
Linda K. Esser
Executive Staff Assistant

STATE OF WISCONSIN
Department of Commerce

In the Matter of the PECFA Appeal of:

Kenneth H. Riemer	
12160 North Wauwatosa Road	PECFA Claim: #53097-2704-60
Mequon, Wisconsin 53097-2740	Hearing #98-207

Final Decision

Preliminary Recitals

Pursuant to a Petition for Hearing dated November 11, 1998 and filed on or about November 17, 1998, under § 101.02 (6) (e) Wis. Stats., and § Comm/ILHR 47.53 Wis. Adm. Code, to review a decision of the Wisconsin Department of Commerce (Department) dated October 26, 1998, a hearing was commenced on June 22, 2000 at Madison, Wisconsin. A Proposed Hearing Officer Decision was issued on February 26, 2001 and the parties were provided a period of twenty (20) days to file objections.

The Issue for determination is:

Whether the Department's Decision dated October 26, 1998 was correct in its interpretation of Wis. Stat. Sec. 101.143 (4) (ei) to require that the claimant appellant must own the 35 contiguous acres at the time his claim was submitted rather than as the claimant appellant contends that he need only own those acres during the year preceding his PECFA claim.

There appeared in this matter the following persons:

PARTIES IN INTEREST:

Kenneth H. Riemer
12160 North Wauwatosa Road
Mequon, Wisconsin 53097-2740

By: John Van Lieshout, Esq.
Reinhart, Boerner, Van Deuren, Norris & Rieselbach, S. C.
1000 North Water Street
P. O. Box 92900
Milwaukee, Wisconsin 53202-0900

PECFA Claim #53097-2704-60

Wisconsin Department of Commerce
PECFA Bureau
201 W. Washington Avenue
P.O. Box 7838
Madison, Wisconsin 53707-7838

By: Kristiane Randal, Esq.
Assistant Legal Counsel
Wisconsin Department of Commerce
201 W. Washington Avenue, Room 322A
P.O. Box 7838
Madison, Wisconsin 53707-7838

The authority to issue a Final Decision in this matter has been delegated to the undersigned by the Secretary of the Department pursuant to § 560.02 (3) Wis. Stats.

The matter now being ready for Final Decision 1, Martha Kerner, Executive Assistant of the Department, hereby issue the following:

FINDINGS OF FACT

The Findings of Fact in the Proposed Hearing Officer Decision cited above are hereby adopted for purposes of this Final Decision.

CONCLUSIONS OF LAW

The Conclusions of Law in the Proposed Hearing Officer Decision cited above are hereby adopted for purposes of this Final Decision.

DISCUSSION

The Discussion in the Proposed Hearing Officer Decision cited above is hereby adopted for purposes of this Final Decision.

FINAL DECISION

The Proposed Hearing Officer Decision cited above is hereby adopted as the Final Decision of the Department.

PECFA Claim #53097-2704-60

NOTICE TO PARTIES

Request for Rehearing

This is a final agency decision under § 227.48 Wis. Stats. If you believe this decision is based on a mistake in the facts or law, you may request a new hearing. You may also ask for a new hearing if you have found new evidence which would change the decision and which you could not have discovered sooner through due diligence. To ask for a new hearing, send a written request to Office of Legal Counsel, Wisconsin Department of Commerce, 201 West Washington Avenue, P.O. Box 7970, Madison, Wisconsin 53707-7970.

Send a copy of your request for a new hearing to all the other parties named in this Final Decision as "PARTIES IN INTEREST".

Your request must explain what mistake you believe the hearing examiner made and why it is important of you must describe your new evidence and tell why you did not have it available at the hearing in this matter. If you do not explain how your request for a new hearing is based on either a mistake of fact or law or the discovery of new evidence which could not have been discovered through due diligence on your part, your request for a new hearing will be denied.

Your request for a new hearing must be received by the Department's Office of Legal Counsel no later than twenty (20) days after the mailing date of this Final Decision as indicated below. Late requests cannot be reviewed or granted. The process for asking for a new hearing is set out in § 227.49 Wis. Stats.

Petition For Judicial Review

Petitions for judicial review must be filed not more than thirty (30) days after the **mailing of this** Final Decision as indicated below (or thirty (30) days after the denial of a denial of a request for a rehearing, if you ask for one). The petition for judicial review must be served on the Secretary, Office of the Secretary, Wisconsin Department of Commerce, 201 West Washington Avenue, P.O. Box 7970, Madison, Wisconsin 53707-7970.

The petition for judicial review must also be served on the other "PARTIES IN INTEREST" or each party's attorney of record. The process for judicial review is described in § 227.53 Wis. Stats.

PECFA Claim #53097-2704-60

Dated: 9/18/01

Martha Kerner
Executive Assistant
Wisconsin Department of Commerce
201 West Washington Avenue
P.O. Box 7970
Madison, Wisconsin 53707-7970

Copies to:

Above identified "PARTIES IN INTEREST", or their legal counsel if represented.

DJ Skaro
Office Manager/PECFA Coordinator
Unemployment Insurance Hearing Office
1801 Aberg Avenue, Suite A
Madison, Wisconsin 53707-7975

Date Mailed: 9/20/01 /
Mailed By Linda K. Esser

